

62A-11-405 Office procedures for income withholding for orders issued or modified before October 13, 1990.

- (1) With regard to child support orders issued prior to October 13, 1990, and not otherwise modified after that date, and for which an obligor or obligee is receiving IV-D services, the office shall proceed to withhold income as a means of collecting child support if a delinquency occurs under the order, regardless of whether the relevant child support order includes authorization for income withholding.
- (2) Upon receipt of a verified statement or affidavit alleging that a delinquency has occurred, the office shall:
 - (a) send notice to the payor for income withholding in accordance with Section 62A-11-406; and
 - (b) send notice to the obligor under Section 62A-11-304.4 that includes:
 - (i) a copy of the notice sent to the payor; and
 - (ii) information regarding:
 - (A) the commencement of income withholding; and
 - (B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing a written request for review under this section with the office within 15 days.
- (3) If the obligor contests the withholding, the office shall:
 - (a) provide an opportunity for the obligor to provide documentation and, if necessary, to present evidence supporting the obligor's claim of mistake of fact;
 - (b) decide whether income withholding shall continue;
 - (c) notify the obligor of its decision and the obligor's right to appeal under Subsection (4); and
 - (d) at the obligor's option, return, if in the office's possession, or credit toward the most current and future support obligations of the obligor any amount mistakenly withheld and, if the mistake is attributable to the office, interest at the legal rate.
- (4)
 - (a) An obligor may appeal the office's decision to withhold income under Subsection (3) by filing an appeal with the district court within 30 days after service of the notice under Subsection (3) and immediately notifying the office in writing of the obligor's decision to appeal.
 - (b) The office shall proceed with income withholding under this part during the appeal, but shall hold all funds it receives, except current child support, in a reserve account pending the court's decision on appeal. The funds, plus interest at the legal rate, shall be paid to the party determined by the court.
 - (c) If an obligor appeals a decision of the office to a district court under Subsection (4)(a), the obligor shall provide to the obligee:
 - (i) notice of the obligor's appeal; and
 - (ii) a copy of any documents filed by the obligor upon the office in connection with the appeal.
- (5) An obligor's payment of overdue child support may not be the sole basis for not implementing income withholding in accordance with this part.

Amended by Chapter 232, 1997 General Session